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Chief Clerk of the House

FILED MAR 11 2005

By: Mah Stroman

H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to eligibility of nonborder areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (i), Section 15.407, Water Code, is amended to read as follows:

(i) If, after submission of an application under this section, a county fails to meet ~~[has an increase in average per capita income or a decrease in unemployment rate average so that the county no longer meets]~~ the definition of an affected county in Section 16.341, the political subdivision that submits the application continues to be eligible for the funds under this section, and the board shall process the application for facility engineering and, if the application is approved, shall provide funds for the facility engineering plan to the political subdivision.

SECTION 2. Subdivision (1), Section 16.341, Water Code, is amended to read as follows:

(1) "Affected county" means a county that:

(A) ~~[that]~~ has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an

1 unemployment rate that averaged 25 percent above the state  
2 average for the most recent three consecutive years for which  
3 statistics are available; ~~or~~

4 (B) ~~[that]~~ is adjacent to an international  
5 border; or

6 (C) is otherwise eligible for financial  
7 assistance under Subchapter K, Chapter 17.

8 SECTION 3. Section 17.923, Water Code, is amended to read  
9 as follows:

10 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.

11 (a) To be eligible for financial assistance under this  
12 subchapter, a county:

13 (1) must have a per capita income that averaged 25  
14 percent below the state average for the most recent three  
15 consecutive years for which statistics are available and an  
16 unemployment rate that averaged 25 percent above the state  
17 average for the most recent three consecutive years for which  
18 statistics are available; or

19 (2) must be located adjacent to an international  
20 border.

21 (b) Notwithstanding Subsection (a), if the board adopts a  
22 resolution stating that the proceeds of the bonds authorized by  
23 Section 49-d-7(b), Article III, Texas Constitution, have been  
24 fully committed, any county with an economically distressed area  
25 is eligible for financial assistance under this subchapter  
26 beginning on the date the resolution is adopted.

1        \_\_\_\_\_SECTION 4.    This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4    If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2003.

# HOUSE COMMITTEE REPORT

APR 22 PM 11: 53  
HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Strama

H.B. No. 3029

Substitute the following for H.B. No. 3029:

By: Callegari

C.S.H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance ~~[loan]~~ fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; ~~[or]~~

(B) any portion of a political subdivision ~~[district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,]~~ with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

(4) "Disadvantaged rural community" means a rural community with a median household income that is not greater than 75 percent of the median state household income for the most recent year for which the applicable statistics are available.

SECTION 3. The heading to Section 15.902, Water Code, is amended to read as follows:

Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND WASTEWATER FINANCIAL ASSISTANCE ~~[LOAN]~~ FUND.

SECTION 4. Section 15.902(a), Water Code, is amended to read as follows:

(a) The disadvantaged rural community water and wastewater financial assistance ~~[loan]~~ fund is an account in the water assistance fund.

SECTION 5. Sections 15.903(a), (b), and (d), Water Code, are amended to read as follows:

(a) The fund may be used by the board to provide grants or loans of financial assistance to political subdivisions or water supply corporations ~~[rural communities]~~ for the construction, acquisition, or improvement of water and wastewater projects to provide service to disadvantaged rural communities.

(b) The board may make financial assistance available to a political subdivision or water supply corporation ~~[rural community]~~ by entering into a grant agreement or a loan agreement and promissory note with the subdivision or corporation ~~[rural community]~~, as provided by this subchapter. A political subdivision or water supply corporation ~~[rural community]~~ may apply for and accept the financial assistance.

(d) The loan agreement must provide for the issuance of a promissory note payable to the board to evidence the obligation of the political subdivision or water supply corporation [~~rural community~~] to repay the loan made in accordance with the terms of the loan agreement.

SECTION 6. Section 15.904(a), Water Code, is amended to read as follows:

(a) A political subdivision or water supply corporation may pledge a percentage of its revenue to the payment of debt incurred under a loan agreement entered into with the board under this subchapter. A [~~rural community that is a~~] municipality or county may pledge a percentage of the sales and use tax revenue received under Chapter 321 or 323, Tax Code, as applicable, to the payment of debt incurred under a loan agreement entered into with the board under this subchapter if a majority of the voters voting at an election called and held for that purpose authorize the municipality or county to pledge a portion of that revenue for that purpose.

SECTION 7. Section 15.905, Water Code, is amended to read as follows:

Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY ATTORNEY GENERAL. (a) Before a loan agreement may become effective, a record of the proceedings of the board and the political subdivision or water supply corporation [~~rural community~~] authorizing the execution of the loan agreement, the loan agreement, the promissory note, and any contract providing revenue or security to pay the promissory note must be submitted to

the attorney general for review and approval.

(b) If the attorney general finds that the loan agreement and the promissory note are valid and binding obligations of the political subdivision or water supply corporation [~~rural community~~], the attorney general shall approve the documents and deliver them to the comptroller, the board, and the subdivision or corporation [~~rural community~~], together with a copy of the attorney general's legal opinion stating that approval.

SECTION 8. Section 15.909, Water Code, is amended to read as follows:

Sec. 15.909. RULES. The board shall adopt necessary rules to administer this subchapter, including rules establishing procedures for application for and award of loans or grants.

SECTION 9. Section 15.910, Water Code, is amended to read as follows:

Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation [~~the rural community~~] must include:

(1) its [~~the~~] name [~~of the rural community~~] and its principal officers;

(2) a citation of the law under which the subdivision or corporation [~~the rural community~~] operates and was created;

(3) a description of the water or wastewater project for which the financial assistance will be used;

(4) the total cost of the project;

(5) the amount of state financial assistance

requested;

(6) the plan for repaying any loan provided by the board for ~~[the total cost of]~~ the project; and

(7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation ~~[rural community]~~. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation ~~[rural community]~~ has a program of water conservation, the subdivision or corporation ~~[rural community]~~ shall state in the application that the subdivision or corporation ~~[rural community]~~ has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

(1) the median household income of the disadvantaged rural community; and

(2) the level of community support for the project.

SECTION 10. Section 15.911, Water Code, is amended to read as follows:

Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may not release funds for the construction phase of that portion of a



1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1           (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5           (3) the relationship of the project to overall  
6 statewide needs; and

7           (4) any other factors that the board considers  
8 relevant.

9           SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11           Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15           (1) the public interest requires state participation  
16 in the project; and

17           (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22           SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24           Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

1 the construction of a project that:

2 (1) each bidder furnish a bid guarantee equivalent to  
3 five percent of the bid price;

4 (2) each contractor awarded a construction contract  
5 furnish performance and payment bonds as follows:

6 (A) the performance bond must include guarantees  
7 that work done under the contract will be completed and performed  
8 according to approved plans and specifications and in accordance  
9 with sound construction principles and practices; and

10 (B) the performance and payment bonds must be in  
11 a penal sum of not less than 100 percent of the contract price and  
12 remain in effect for one year after the date of approval by the  
13 engineer of the ~~[political]~~ subdivision or corporation;

14 (3) payment be made in partial payments as the work  
15 progresses;

16 (4) each partial payment not exceed 95 percent of the  
17 amount due at the time of the payment as shown by the engineer of the  
18 project, but, if the project is substantially complete, a partial  
19 release of the five percent retainage may be made by the subdivision  
20 or corporation ~~[rural community]~~ with approval of the executive  
21 administrator;

22 (5) payment of the retainage remaining due on  
23 completion of the contract be made only after:

24 (A) approval by the engineer for the subdivision  
25 or corporation ~~[rural community]~~ as required under the bond  
26 proceedings;

27 (B) approval by the subdivision or corporation

1 ~~[governing body of the rural community]~~ by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation ~~[rural community]~~ shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation ~~[rural community]~~ may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

4/18/05  
(date)

Sir:  
We, your COMMITTEE ON NATURAL RESOURCES  
to whom was referred HB 3029 have had the same under consideration and beg to report  
back with the recommendation that it

- ( ) do pass, without amendment.
- ( ) do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ( ) no A fiscal note was requested.
- ( ) yes ☒ no A criminal justice policy impact statement was requested.
- ( ) yes ☒ no An equalized educational funding impact statement was requested.
- ( ) yes ☒ no An actuarial analysis was requested.
- ( ) yes ☒ no A water development policy impact statement was requested.
- ( ) yes ☒ no A tax equity note was requested.
- ( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Bonnen	X			
Campbell	X			
Geren	X			
Hardcastle	X			
Hilderbran				X
Hope	X			
Laney	X			

Total      8      aye  
                 0      nay  
                 0      present, not voting  
                 1      absent

Al H. H. H.  
CHAIR

## **BILL ANALYSIS**

C.S.H.B. 3029  
By: Strama  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2001, the legislature created the Pilot Program for Water and Wastewater Services to provide resources for rural communities that need water and wastewater loans. The Texas Water Development Board has administered this program and has used it to address certain communities in need of assistance. C.S.H.B. 3029 would permit neighborhoods of less than 5,000 to receive funds for water and wastewater services, and political subdivisions across the state that demonstrate need would now be eligible under this program for additional funding. The Texas Water Development Board would have power to administer the program and the program would become permanent, rather than remaining a pilot program.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 8 of this bill.

### **ANALYSIS**

SECTION 1. Renames the Pilot Program for Water and Wastewater Loans for Rural Communities the "Program for Water and Wastewater Financial Assistance for Disadvantaged Rural Communities."

SECTION 2. Amends program definitions in Section 15.901, Water Code to provide that the term "rural community" includes any portion of a political subdivision with a service population of less than 5,000 located outside a municipality or its extra-territorial jurisdiction, and defines "disadvantaged rural community" as a rural community where median household income is not greater than 75% of median state household income.

SECTION 3. Amends the heading of Section 15.902, Water Code to reflect the changes to the program and to specify that financial assistance is not restricted to loans.

SECTION 4. Amends the text of Section 15.902(a), Water Code to refer to the proper fund.

SECTION 5. Amends Section 15.903, Water Code, to allow the board to provide grants to political subdivisions or water supply corporations for service to rural communities. Subdivision (b) is amended to allow the board to provide grants in addition to loans to political subdivisions and water supply corporations instead of rural communities. Subdivision (d) is amended to change the eligible governmental units from rural communities to political subdivisions and water supply corporations.

SECTION 6. Amends Section 15.904(a), Water Code, to allow water supply corporations or political subdivisions to pledge a portion of incoming revenue to repayment of program loans.

SECTION 7. Amends Section 15.905 (a) and (b), Water Code, to specify political subdivisions and water supply corporations instead of rural communities.

SECTION 8. Amends Section 15.909, Water Code, to allow the water development board to adopt the necessary rules to administer grants in addition to loans under Subchapter O.

SECTION 9. Amends Section 15.910(a), Water Code, to specify what political subdivisions and water supply corporations rather than rural communities must include in an application for



financial assistance under the program. Amends subpart (b) to require that political subdivisions and water supply corporations must include household surveys for the area to be served to show median household income for the project area and support of the community for the project.

SECTION 10. Amends Section 15.911, Water Code, to specify that political subdivisions and water supply corporations and not rural communities are covered under the provisions in the section and have the rights and obligations formerly designated to rural communities.

SECTION 11. Amends Section 15.912, Water Code, to require the board to consider the availability of revenue from a political subdivision or water supply corporation instead of a rural community to repay the project.

SECTION 12. Amends Section 15.913, Water Code, to require for approval of an application that the board find that revenue or taxes pledged by political subdivisions or water supply corporations will be sufficient to meet the obligations these organizations assume, regardless of the duration such obligations.

SECTION 13. Amends Section 15.914, Water Code, to delete language concerning rural communities and replace such language with language applicable to political subdivisions or water supply corporations. The changes conform requirements concerning bonds and financial provisions to political subdivisions rather than rural communities.

SECTION 14. Amends Section 15.915, Water Code, to require that the political subdivision or water supply corporation instead of a rural community must file copies of construction contracts with the board.

SECTION 15. Amends Section 15.917, Water Code, to require that a political subdivision or water supply corporation rather than a rural community must comply with engineering plans.

SECTION 16. Amends Section 15.920, Water Code, to require that political subdivisions or water supply corporations have the authority rather than rural communities to enter into grant agreements and issue promissory notes.

SECTION 17. Repeals Sections 15.901(2), 15.903(e), and 15.919, Water Code.

SECTION 18. Provides that the program only applies to applications made on or after the bill's effective date.

#### **EFFECTIVE DATE**

C.S.H.B. 3029 takes effect immediately if it receives a 2/3rds vote in both chambers, otherwise it takes effect Sept. 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original bill changed the Economically Distressed Areas Program (EDAP) by amending one section each of Chapters 15, 16, and 17 of the Code. The substitute concerns the eligibility of non-border areas for state assistance, but does so in a more targeted way, amending Subchapter O of Chapter 15 of the Water Code alone. Each of the 18 sections in the substitute are different from the 4 sections in the original bill. The substitute is a partial revision of Sections 15.901 through 15.919 of the Water Code.

## SUMMARY OF COMMITTEE ACTION

HB 3029

April 11, 2005      2:00PM      or upon final adjourn./recess

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Considered in public hearing

Committee substitute considered in committee

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 18, 2005      2:00PM      or upon final adjourn./recess

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Considered in public hearing

Committee substitute considered in committee

Reported favorably as substituted

x<sup>3</sup>

WITNESS LIST

HB 3029

HOUSE COMMITTEE REPORT

Natural Resources Committee

April 11, 2005 - 2:00PM or upon final adjourn./recess

For: Brown, Johnny (Self)  
Brown, Joseph Calvin (Self)  
Brown, Nettie (Self and Northridge Acres Homeowner's Association)  
Petersen, Ken (Texas Rural Water Association)  
Smith, Daniel R. (Travis County Judge Sam Biscoe)  
Snyder, Kenneth (Self)  
Wray, Dorothy (Self)  
On: Holcomb, Doug (Texas Commission on Environmental Quality)  
Ward, J. Kevin (Texas Water Development Board)

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 21, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE:** HB3029 by Strama (Relating to eligibility of certain rural areas for certain state assistance. ),  
**Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would rename the Pilot Program for Water and Wastewater for Rural Communities to the Program for Water and Wastewater Financial Assistance for Disadvantaged Rural Communities. Accordingly, the name of the fund would be changed from the Rural Community Water and Wastewater Loan Fund to the Disadvantaged Rural Community Water and Wastewater Financial Assistance Fund, which would continue to be an account in the Water Assistance Fund.

The definition for "rural community" would be amended to expand eligibility for communities to participate in the financial assistance program, and a definition for "disadvantaged rural community" would be added to statute for the same purpose.

The bill would amend the procedures for applying for and granting assistance, as well as construction contract requirements. The bill would also repeal sections of the Water Code, including Section 15.903(e) which limits a loan term to 20 years.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005. Provisions of the bill would apply only to applications for assistance made on or after the effective date.

The proposed changes to statute would not change the level of state assistance that could be provided to political subdivisions and water supply corporations; assistance would continue to be limited to amounts available in the (to be renamed) Wastewater Financial Assistance Fund.

**Local Government Impact**

Political subdivisions that may not be eligible for water and wastewater financial assistance under existing statute could seek financial assistance under the provisions of the bill. The positive fiscal impact would vary and would depend on what is approved by TWDB.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 10, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of nonborder areas for certain state assistance.), As Introduced

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Water Code to broaden the eligibility for nonborder counties to qualify for certain state assistance. The bill would take effect immediately if it receives a two-thirds vote in each house; otherwise, it is assumed it would take effect September 1, 2005 (the bill indicates it would take effect September 1, 2003 if it does not receive the two-thirds vote).

Broadening the criteria could result in an increase in the number of entities eligible for state financial assistance under various sections of the Water Code, and thereby the demand for such assistance; however, it is not expected to result in significant cost increases to the state because such entities would already be eligible for existing similar state agency programs.

**Local Government Impact**

The bill could result in certain political subdivisions being eligible for additional grant funds and loan assistance at reduced interest rates; however, since such entities would likely be eligible for similar financial assistance programs under current law, no significant fiscal implications are expected.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa

ADOPTED

MAY 09 2005

Re  
Chief Clerk  
House of Representatives

By:

[Signature]

H.B. No. 3029

Substitute the following for H.B. No. 3029:

By:

Callegari

C.S. H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance ~~[loan]~~ fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; ~~[or]~~

(B) any portion of a political subdivision ~~[district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,]~~ with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

1           (4) "Disadvantaged rural community" means a rural  
2 community with a median household income that is not greater than 75  
3 percent of the median state household income for the most recent  
4 year for which the applicable statistics are available.

5           SECTION 3. The heading to Section 15.902, Water Code, is  
6 amended to read as follows:

7           Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
8 WASTEWATER FINANCIAL ASSISTANCE [LOAN] FUND.

9           SECTION 4. Section 15.902(a), Water Code, is amended to  
10 read as follows:

11           (a) The disadvantaged rural community water and wastewater  
12 financial assistance [loan] fund is an account in the water  
13 assistance fund.

14           SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
15 are amended to read as follows:

16           (a) The fund may be used by the board to provide grants or  
17 loans of financial assistance to political subdivisions or water  
18 supply corporations [rural communities] for the construction,  
19 acquisition, or improvement of water and wastewater projects to  
20 provide service to disadvantaged rural communities.

21           (b) The board may make financial assistance available to a  
22 political subdivision or water supply corporation [rural  
23 community] by entering into a grant agreement or a loan agreement  
24 and promissory note with the subdivision or corporation [rural  
25 community], as provided by this subchapter. A political  
26 subdivision or water supply corporation [rural community] may apply  
27 for and accept the financial assistance.

1 (d) The loan agreement must provide for the issuance of a  
2 promissory note payable to the board to evidence the obligation of  
3 the political subdivision or water supply corporation [~~rural~~  
4 ~~community~~] to repay the loan made in accordance with the terms of  
5 the loan agreement.

6 SECTION 6. Section 15.904(a), Water Code, is amended to  
7 read as follows:

8 (a) A political subdivision or water supply corporation may  
9 pledge a percentage of its revenue to the payment of debt incurred  
10 under a loan agreement entered into with the board under this  
11 subchapter. A [~~rural community that is a~~] municipality or county  
12 may pledge a percentage of the sales and use tax revenue received  
13 under Chapter 321 or 323, Tax Code, as applicable, to the payment of  
14 debt incurred under a loan agreement entered into with the board  
15 under this subchapter if a majority of the voters voting at an  
16 election called and held for that purpose authorize the  
17 municipality or county to pledge a portion of that revenue for that  
18 purpose.

19 SECTION 7. Section 15.905, Water Code, is amended to read as  
20 follows:

21 Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY  
22 ATTORNEY GENERAL. (a) Before a loan agreement may become  
23 effective, a record of the proceedings of the board and the  
24 political subdivision or water supply corporation [~~rural~~  
25 ~~community~~] authorizing the execution of the loan agreement, the  
26 loan agreement, the promissory note, and any contract providing  
27 revenue or security to pay the promissory note must be submitted to



1 the attorney general for review and approval.

2 (b) If the attorney general finds that the loan agreement  
3 and the promissory note are valid and binding obligations of the  
4 political subdivision or water supply corporation [~~rural~~  
5 ~~community~~], the attorney general shall approve the documents and  
6 deliver them to the comptroller, the board, and the subdivision or  
7 corporation [~~rural community~~], together with a copy of the attorney  
8 general's legal opinion stating that approval.

9 SECTION 8. Section 15.909, Water Code, is amended to read as  
10 follows:

11 Sec. 15.909. RULES. The board shall adopt necessary rules  
12 to administer this subchapter, including rules establishing  
13 procedures for application for and award of loans or grants.

14 SECTION 9. Section 15.910, Water Code, is amended to read as  
15 follows:

16 Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an  
17 application to the board for financial assistance from the fund, a  
18 political subdivision or water supply corporation [~~the rural~~  
19 ~~community~~] must include:

20 (1) its [~~the~~] name [~~of the rural community~~] and its  
21 principal officers;

22 (2) a citation of the law under which the subdivision  
23 or corporation [~~the rural community~~] operates and was created;

24 (3) a description of the water or wastewater project  
25 for which the financial assistance will be used;

26 (4) the total cost of the project;

27 (5) the amount of state financial assistance

1 requested;

2 (6) the plan for repaying any loan provided by the  
3 board for [the total cost of] the project; and

4 (7) any other information the board requires in order  
5 to perform its duties and to protect the public interest.

6 (b) The board may not accept an application for a loan or  
7 grant of financial assistance from the fund unless it is submitted  
8 in affidavit form by the officials of the political subdivision or  
9 water supply corporation [rural community]. The board shall  
10 prescribe the affidavit form in its rules.

11 (c) If a political subdivision or water supply corporation  
12 [rural community] has a program of water conservation, the  
13 subdivision or corporation [rural community] shall state in the  
14 application that the subdivision or corporation [rural community]  
15 has such a program.

16 (d) In an application to the board for financial assistance  
17 from the fund, a political subdivision or water supply corporation  
18 shall include household surveys for the disadvantaged rural  
19 community to be served by the project that are acceptable to the  
20 board and contain information adequate to establish:

21 (1) the median household income of the disadvantaged  
22 rural community; and

23 (2) the level of community support for the project.

24 SECTION 10. Section 15.911, Water Code, is amended to read  
25 as follows:

26 Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may  
27 not release funds for the construction phase of that portion of a

1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1           (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5           (3) the relationship of the project to overall  
6 statewide needs; and

7           (4) any other factors that the board considers  
8 relevant.

9           SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11           Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15           (1) the public interest requires state participation  
16 in the project; and

17           (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22           SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24           Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

1 the construction of a project that:

2 (1) each bidder furnish a bid guarantee equivalent to  
3 five percent of the bid price;

4 (2) each contractor awarded a construction contract  
5 furnish performance and payment bonds as follows:

6 (A) the performance bond must include guarantees  
7 that work done under the contract will be completed and performed  
8 according to approved plans and specifications and in accordance  
9 with sound construction principles and practices; and

10 (B) the performance and payment bonds must be in  
11 a penal sum of not less than 100 percent of the contract price and  
12 remain in effect for one year after the date of approval by the  
13 engineer of the [~~political~~] subdivision or corporation;

14 (3) payment be made in partial payments as the work  
15 progresses;

16 (4) each partial payment not exceed 95 percent of the  
17 amount due at the time of the payment as shown by the engineer of the  
18 project, but, if the project is substantially complete, a partial  
19 release of the five percent retainage may be made by the subdivision  
20 or corporation [~~rural community~~] with approval of the executive  
21 administrator;

22 (5) payment of the retainage remaining due on  
23 completion of the contract be made only after:

24 (A) approval by the engineer for the subdivision  
25 or corporation [~~rural community~~] as required under the bond  
26 proceedings;

27 (B) approval by the subdivision or corporation

1 ~~[governing body of the rural community]~~ by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation ~~[rural community]~~ shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation ~~[rural community]~~ may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.



F

2ND READING  
ENGROSSMENT

By: Strama

H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance ~~[loan]~~ fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; ~~[or]~~

(B) any portion of a political subdivision ~~[district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,]~~ with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

1           (4) "Disadvantaged rural community" means a rural  
2 community with a median household income that is not greater than 75  
3 percent of the median state household income for the most recent  
4 year for which the applicable statistics are available.

5           SECTION 3. The heading to Section 15.902, Water Code, is  
6 amended to read as follows:

7           Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
8 WASTEWATER FINANCIAL ASSISTANCE [~~LOAN~~] FUND.

9           SECTION 4. Section 15.902(a), Water Code, is amended to  
10 read as follows:

11           (a) The disadvantaged rural community water and wastewater  
12 financial assistance [~~loan~~] fund is an account in the water  
13 assistance fund.

14           SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
15 are amended to read as follows:

16           (a) The fund may be used by the board to provide grants or  
17 loans of financial assistance to political subdivisions or water  
18 supply corporations [~~rural communities~~] for the construction,  
19 acquisition, or improvement of water and wastewater projects to  
20 provide service to disadvantaged rural communities.

21           (b) The board may make financial assistance available to a  
22 political subdivision or water supply corporation [~~rural~~  
23 ~~community~~] by entering into a grant agreement or a loan agreement  
24 and promissory note with the subdivision or corporation [~~rural~~  
25 ~~community~~], as provided by this subchapter. A political  
26 subdivision or water supply corporation [~~rural community~~] may apply  
27 for and accept the financial assistance.

1 (d) The loan agreement must provide for the issuance of a  
2 promissory note payable to the board to evidence the obligation of  
3 the political subdivision or water supply corporation [~~rural~~  
4 ~~community~~] to repay the loan made in accordance with the terms of  
5 the loan agreement.

6 SECTION 6. Section 15.904(a), Water Code, is amended to  
7 read as follows:

8 (a) A political subdivision or water supply corporation may  
9 pledge a percentage of its revenue to the payment of debt incurred  
10 under a loan agreement entered into with the board under this  
11 subchapter. A [~~rural community that is a~~] municipality or county  
12 may pledge a percentage of the sales and use tax revenue received  
13 under Chapter 321 or 323, Tax Code, as applicable, to the payment of  
14 debt incurred under a loan agreement entered into with the board  
15 under this subchapter if a majority of the voters voting at an  
16 election called and held for that purpose authorize the  
17 municipality or county to pledge a portion of that revenue for that  
18 purpose.

19 SECTION 7. Section 15.905, Water Code, is amended to read as  
20 follows:

21 Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY  
22 ATTORNEY GENERAL. (a) Before a loan agreement may become  
23 effective, a record of the proceedings of the board and the  
24 political subdivision or water supply corporation [~~rural~~  
25 ~~community~~] authorizing the execution of the loan agreement, the  
26 loan agreement, the promissory note, and any contract providing  
27 revenue or security to pay the promissory note must be submitted to

1 the attorney general for review and approval.

2 (b) If the attorney general finds that the loan agreement  
3 and the promissory note are valid and binding obligations of the  
4 political subdivision or water supply corporation [~~rural~~  
5 ~~community~~], the attorney general shall approve the documents and  
6 deliver them to the comptroller, the board, and the subdivision or  
7 corporation [~~rural community~~], together with a copy of the attorney  
8 general's legal opinion stating that approval.

9 SECTION 8. Section 15.909, Water Code, is amended to read as  
10 follows:

11 Sec. 15.909. RULES. The board shall adopt necessary rules  
12 to administer this subchapter, including rules establishing  
13 procedures for application for and award of loans or grants.

14 SECTION 9. Section 15.910, Water Code, is amended to read as  
15 follows:

16 Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an  
17 application to the board for financial assistance from the fund, a  
18 political subdivision or water supply corporation [~~the rural~~  
19 ~~community~~] must include:

20 (1) its [~~the~~] name [~~of the rural community~~] and its  
21 principal officers;

22 (2) a citation of the law under which the subdivision  
23 or corporation [~~the rural community~~] operates and was created;

24 (3) a description of the water or wastewater project  
25 for which the financial assistance will be used;

26 (4) the total cost of the project;

27 (5) the amount of state financial assistance

requested;

(6) the plan for repaying any loan provided by the board for ~~[the total cost of]~~ the project; and

(7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation ~~[rural community]~~. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation ~~[rural community]~~ has a program of water conservation, the subdivision or corporation ~~[rural community]~~ shall state in the application that the subdivision or corporation ~~[rural community]~~ has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

(1) the median household income of the disadvantaged rural community; and

(2) the level of community support for the project.

SECTION 10. Section 15.911, Water Code, is amended to read as follows:

Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may not release funds for the construction phase of that portion of a

1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1           (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5           (3) the relationship of the project to overall  
6 statewide needs; and

7           (4) any other factors that the board considers  
8 relevant.

9           SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11           Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15           (1) the public interest requires state participation  
16 in the project; and

17           (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22           SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24           Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

1 the construction of a project that:

2 (1) each bidder furnish a bid guarantee equivalent to  
3 five percent of the bid price;

4 (2) each contractor awarded a construction contract  
5 furnish performance and payment bonds as follows:

6 (A) the performance bond must include guarantees  
7 that work done under the contract will be completed and performed  
8 according to approved plans and specifications and in accordance  
9 with sound construction principles and practices; and

10 (B) the performance and payment bonds must be in  
11 a penal sum of not less than 100 percent of the contract price and  
12 remain in effect for one year after the date of approval by the  
13 engineer of the ~~[political]~~ subdivision or corporation;

14 (3) payment be made in partial payments as the work  
15 progresses;

16 (4) each partial payment not exceed 95 percent of the  
17 amount due at the time of the payment as shown by the engineer of the  
18 project, but, if the project is substantially complete, a partial  
19 release of the five percent retainage may be made by the subdivision  
20 or corporation ~~[rural community]~~ with approval of the executive  
21 administrator;

22 (5) payment of the retainage remaining due on  
23 completion of the contract be made only after:

24 (A) approval by the engineer for the subdivision  
25 or corporation ~~[rural community]~~ as required under the bond  
26 proceedings;

27 (B) approval by the subdivision or corporation



1 ~~[governing body of the rural community]~~ by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation ~~[rural community]~~ shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation ~~[rural community]~~ may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.

F

# HOUSE ENGROSSMENT

By: Strama

H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. [~~PILOT~~] PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE [~~LOANS~~] FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance [~~loan~~] fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; [~~or~~]

(B) any portion of a political subdivision [~~district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,~~] with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

1           (4) "Disadvantaged rural community" means a rural  
2 community with a median household income that is not greater than 75  
3 percent of the median state household income for the most recent  
4 year for which the applicable statistics are available.

5           SECTION 3. The heading to Section 15.902, Water Code, is  
6 amended to read as follows:

7           Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
8 WASTEWATER FINANCIAL ASSISTANCE [~~LOAN~~] FUND.

9           SECTION 4. Section 15.902(a), Water Code, is amended to  
10 read as follows:

11           (a) The disadvantaged rural community water and wastewater  
12 financial assistance [~~loan~~] fund is an account in the water  
13 assistance fund.

14           SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
15 are amended to read as follows:

16           (a) The fund may be used by the board to provide grants or  
17 loans of financial assistance to political subdivisions or water  
18 supply corporations [~~rural communities~~] for the construction,  
19 acquisition, or improvement of water and wastewater projects to  
20 provide service to disadvantaged rural communities.

21           (b) The board may make financial assistance available to a  
22 political subdivision or water supply corporation [~~rural~~  
23 ~~community~~] by entering into a grant agreement or a loan agreement  
24 and promissory note with the subdivision or corporation [~~rural~~  
25 ~~community~~], as provided by this subchapter. A political  
26 subdivision or water supply corporation [~~rural community~~] may apply  
27 for and accept the financial assistance.

1           (d) The loan agreement must provide for the issuance of a  
2 promissory note payable to the board to evidence the obligation of  
3 the political subdivision or water supply corporation [~~rural~~  
4 ~~community~~] to repay the loan made in accordance with the terms of  
5 the loan agreement.

6           SECTION 6. Section 15.904(a), Water Code, is amended to  
7 read as follows:

8           (a) A political subdivision or water supply corporation may  
9 pledge a percentage of its revenue to the payment of debt incurred  
10 under a loan agreement entered into with the board under this  
11 subchapter. A [~~rural community that is a~~] municipality or county  
12 may pledge a percentage of the sales and use tax revenue received  
13 under Chapter 321 or 323, Tax Code, as applicable, to the payment of  
14 debt incurred under a loan agreement entered into with the board  
15 under this subchapter if a majority of the voters voting at an  
16 election called and held for that purpose authorize the  
17 municipality or county to pledge a portion of that revenue for that  
18 purpose.

19           SECTION 7. Section 15.905, Water Code, is amended to read as  
20 follows:

21           Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY  
22 ATTORNEY GENERAL. (a) Before a loan agreement may become  
23 effective, a record of the proceedings of the board and the  
24 political subdivision or water supply corporation [~~rural~~  
25 ~~community~~] authorizing the execution of the loan agreement, the  
26 loan agreement, the promissory note, and any contract providing  
27 revenue or security to pay the promissory note must be submitted to

1 the attorney general for review and approval.

2 (b) If the attorney general finds that the loan agreement  
3 and the promissory note are valid and binding obligations of the  
4 political subdivision or water supply corporation [~~rural~~  
5 ~~community~~], the attorney general shall approve the documents and  
6 deliver them to the comptroller, the board, and the subdivision or  
7 corporation [~~rural community~~], together with a copy of the attorney  
8 general's legal opinion stating that approval.

9 SECTION 8. Section 15.909, Water Code, is amended to read as  
10 follows:

11 Sec. 15.909. RULES. The board shall adopt necessary rules  
12 to administer this subchapter, including rules establishing  
13 procedures for application for and award of loans or grants.

14 SECTION 9. Section 15.910, Water Code, is amended to read as  
15 follows:

16 Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an  
17 application to the board for financial assistance from the fund, a  
18 political subdivision or water supply corporation [~~the rural~~  
19 ~~community~~] must include:

20 (1) its [~~the~~] name [~~of the rural community~~] and its  
21 principal officers;

22 (2) a citation of the law under which the subdivision  
23 or corporation [~~the rural community~~] operates and was created;

24 (3) a description of the water or wastewater project  
25 for which the financial assistance will be used;

26 (4) the total cost of the project;

27 (5) the amount of state financial assistance

requested;

(6) the plan for repaying any loan provided by the board for ~~[the total cost of]~~ the project; and

(7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation ~~[rural community]~~. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation ~~[rural community]~~ has a program of water conservation, the subdivision or corporation ~~[rural community]~~ shall state in the application that the subdivision or corporation ~~[rural community]~~ has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

(1) the median household income of the disadvantaged rural community; and

(2) the level of community support for the project.

SECTION 10. Section 15.911, Water Code, is amended to read as follows:

Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may not release funds for the construction phase of that portion of a



1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1           (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5           (3) the relationship of the project to overall  
6 statewide needs; and

7           (4) any other factors that the board considers  
8 relevant.

9           SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11           Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15           (1) the public interest requires state participation  
16 in the project; and

17           (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22           SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24           Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

1 the construction of a project that:

2 (1) each bidder furnish a bid guarantee equivalent to  
3 five percent of the bid price;

4 (2) each contractor awarded a construction contract  
5 furnish performance and payment bonds as follows:

6 (A) the performance bond must include guarantees  
7 that work done under the contract will be completed and performed  
8 according to approved plans and specifications and in accordance  
9 with sound construction principles and practices; and

10 (B) the performance and payment bonds must be in  
11 a penal sum of not less than 100 percent of the contract price and  
12 remain in effect for one year after the date of approval by the  
13 engineer of the ~~[political]~~ subdivision or corporation;

14 (3) payment be made in partial payments as the work  
15 progresses;

16 (4) each partial payment not exceed 95 percent of the  
17 amount due at the time of the payment as shown by the engineer of the  
18 project, but, if the project is substantially complete, a partial  
19 release of the five percent retainage may be made by the subdivision  
20 or corporation ~~[rural community]~~ with approval of the executive  
21 administrator;

22 (5) payment of the retainage remaining due on  
23 completion of the contract be made only after:

24 (A) approval by the engineer for the subdivision  
25 or corporation ~~[rural community]~~ as required under the bond  
26 proceedings;

27 (B) approval by the subdivision or corporation

1 ~~[governing body of the rural community]~~ by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation ~~[rural community]~~ shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation ~~[rural community]~~ may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 21, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of certain rural areas for certain state assistance. ),  
**Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would rename the Pilot Program for Water and Wastewater for Rural Communities to the Program for Water and Wastewater Financial Assistance for Disadvantaged Rural Communities. Accordingly, the name of the fund would be changed from the Rural Community Water and Wastewater Loan Fund to the Disadvantaged Rural Community Water and Wastewater Financial Assistance Fund, which would continue to be an account in the Water Assistance Fund.

The definition for "rural community" would be amended to expand eligibility for communities to participate in the financial assistance program, and a definition for "disadvantaged rural community" would be added to statute for the same purpose.

The bill would amend the procedures for applying for and granting assistance, as well as construction contract requirements. The bill would also repeal sections of the Water Code, including Section 15.903(e) which limits a loan term to 20 years.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005. Provisions of the bill would apply only to applications for assistance made on or after the effective date.

The proposed changes to statute would not change the level of state assistance that could be provided to political subdivisions and water supply corporations; assistance would continue to be limited to amounts available in the (to be renamed) Wastewater Financial Assistance Fund.

**Local Government Impact**

Political subdivisions that may not be eligible for water and wastewater financial assistance under existing statute could seek financial assistance under the provisions of the bill. The positive fiscal impact would vary and would depend on what is approved by TWDB.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 10, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of nonborder areas for certain state assistance.), As Introduced

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Water Code to broaden the eligibility for nonborder counties to qualify for certain state assistance. The bill would take effect immediately if it receives a two-thirds vote in each house; otherwise, it is assumed it would take effect September 1, 2005 (the bill indicates it would take effect September 1, 2003 if it does not receive the two-thirds vote).

Broadening the criteria could result in an increase in the number of entities eligible for state financial assistance under various sections of the Water Code, and thereby the demand for such assistance; however, it is not expected to result in significant cost increases to the state because such entities would already be eligible for existing similar state agency programs.

**Local Government Impact**

The bill could result in certain political subdivisions being eligible for additional grant funds and loan assistance at reduced interest rates; however, since such entities would likely be eligible for similar financial assistance programs under current law, no significant fiscal implications are expected.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa



1-1 By: Strama (Senate Sponsor - Barrientos) H.B. No. 3029  
1-2 (In the Senate - Received from the House May 11, 2005;  
1-3 May 13, 2005, read first time and referred to Committee on Natural  
1-4 Resources; May 20, 2005, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to eligibility of certain rural areas for certain state  
1-9 assistance.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Subchapter O, Chapter 15, Water  
1-12 Code, is amended to read as follows:

1-13 SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL  
1-14 ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

1-15 SECTION 2. Section 15.901, Water Code, is amended by  
1-16 amending Subdivisions (1) and (3) and adding Subdivision (4) to  
1-17 read as follows:

1-18 (1) "Fund" means the disadvantaged rural community  
1-19 water and wastewater financial assistance ~~[loan]~~ fund.

1-20 (3) "Rural community" means:

1-21 (A) a municipality or county with a population of  
1-22 less than 5,000; ~~[or]~~

1-23 (B) any portion of a political subdivision  
1-24 [district or authority created under Section 52, Article III, or  
1-25 Section 59, Article XVI, Texas Constitution,] with a service  
1-26 population of less than 5,000 that is located outside the  
1-27 boundaries or extraterritorial jurisdiction of a municipality; or

1-28 (C) a predominately residential area with a  
1-29 population of less than 5,000 that is located outside the corporate  
1-30 boundaries of a municipality.

1-31 (4) "Disadvantaged rural community" means a rural  
1-32 community with a median household income that is not greater than 75  
1-33 percent of the median state household income for the most recent  
1-34 year for which the applicable statistics are available.

1-35 SECTION 3. The heading to Section 15.902, Water Code, is  
1-36 amended to read as follows:

1-37 Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
1-38 WASTEWATER FINANCIAL ASSISTANCE ~~[LOAN]~~ FUND.

1-39 SECTION 4. Section 15.902(a), Water Code, is amended to  
1-40 read as follows:

1-41 (a) The disadvantaged rural community water and wastewater  
1-42 financial assistance ~~[loan]~~ fund is an account in the water  
1-43 assistance fund.

1-44 SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
1-45 are amended to read as follows:

1-46 (a) The fund may be used by the board to provide grants or  
1-47 loans of financial assistance to political subdivisions or water  
1-48 supply corporations ~~[rural communities]~~ for the construction,  
1-49 acquisition, or improvement of water and wastewater projects to  
1-50 provide service to disadvantaged rural communities.

1-51 (b) The board may make financial assistance available to a  
1-52 political subdivision or water supply corporation ~~[rural~~  
1-53 ~~community]~~ by entering into a grant agreement or a loan agreement  
1-54 and promissory note with the subdivision or corporation ~~[rural~~  
1-55 ~~community]~~, as provided by this subchapter. A political  
1-56 subdivision or water supply corporation ~~[rural community]~~ may apply  
1-57 for and accept the financial assistance.

1-58 (d) The loan agreement must provide for the issuance of a  
1-59 promissory note payable to the board to evidence the obligation of  
1-60 the political subdivision or water supply corporation ~~[rural~~  
1-61 ~~community]~~ to repay the loan made in accordance with the terms of  
1-62 the loan agreement.

1-63 SECTION 6. Section 15.904(a), Water Code, is amended to  
1-64 read as follows:

(a) A political subdivision or water supply corporation may pledge a percentage of its revenue to the payment of debt incurred under a loan agreement entered into with the board under this subchapter. A ~~[rural community that is a]~~ municipality or county may pledge a percentage of the sales and use tax revenue received under Chapter 321 or 323, Tax Code, as applicable, to the payment of debt incurred under a loan agreement entered into with the board under this subchapter if a majority of the voters voting at an election called and held for that purpose authorize the municipality or county to pledge a portion of that revenue for that purpose.

SECTION 7. Section 15.905, Water Code, is amended to read as follows:

Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY ATTORNEY GENERAL. (a) Before a loan agreement may become effective, a record of the proceedings of the board and the political subdivision or water supply corporation ~~[rural community]~~ authorizing the execution of the loan agreement, the loan agreement, the promissory note, and any contract providing revenue or security to pay the promissory note must be submitted to the attorney general for review and approval.

(b) If the attorney general finds that the loan agreement and the promissory note are valid and binding obligations of the political subdivision or water supply corporation ~~[rural community]~~, the attorney general shall approve the documents and deliver them to the comptroller, the board, and the subdivision or corporation ~~[rural community]~~, together with a copy of the attorney general's legal opinion stating that approval.

SECTION 8. Section 15.909, Water Code, is amended to read as follows:

Sec. 15.909. RULES. The board shall adopt necessary rules to administer this subchapter, including rules establishing procedures for application for and award of loans or grants.

SECTION 9. Section 15.910, Water Code, is amended to read as follows:

Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation ~~[the rural community]~~ must include:

(1) its ~~[the]~~ name ~~[of the rural community]~~ and its principal officers;

(2) a citation of the law under which the subdivision or corporation ~~[the rural community]~~ operates and was created;

(3) a description of the water or wastewater project for which the financial assistance will be used;

(4) the total cost of the project;

(5) the amount of state financial assistance requested;

(6) the plan for repaying any loan provided by the board for ~~[the total cost of]~~ the project; and

(7) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund unless it is submitted in affidavit form by the officials of the political subdivision or water supply corporation ~~[rural community]~~. The board shall prescribe the affidavit form in its rules.

(c) If a political subdivision or water supply corporation ~~[rural community]~~ has a program of water conservation, the subdivision or corporation ~~[rural community]~~ shall state in the application that the subdivision or corporation ~~[rural community]~~ has such a program.

(d) In an application to the board for financial assistance from the fund, a political subdivision or water supply corporation shall include household surveys for the disadvantaged rural community to be served by the project that are acceptable to the board and contain information adequate to establish:

(1) the median household income of the disadvantaged rural community; and

(2) the level of community support for the project.

SECTION 10. Section 15.911, Water Code, is amended to read as follows:

Sec. 15.911. FINDINGS REGARDING PERMITS. (a) The board may not release funds for the construction phase of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that the political subdivision or water supply corporation [a rural community] proposing surface water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

(2) that the subdivision or corporation [a rural community] proposing groundwater development has the right to use water that the project will provide.

(b) If the political subdivision or water supply corporation [a rural community] includes a proposal for a wastewater treatment project, the board may not release funds for the project construction until the subdivision or corporation [rural community] has received a permit for the construction and operation of the project and approval of the plans and specifications for the project in a manner that will satisfy commission requirements for design criteria and permit conditions that apply to construction activities.

SECTION 11. Section 15.912, Water Code, is amended to read as follows:

Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In acting on an application for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision or water supply corporation [rural community] from all sources for any necessary [the ultimate] repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) any other factors that the board considers relevant.

SECTION 12. Section 15.913, Water Code, is amended to read as follows:

Sec. 15.913. APPROVAL OF APPLICATION. The board by resolution may approve an application for a loan or grant if, after considering the factors listed in Section 15.912 and any other relevant factors, the board finds that:

(1) the public interest requires state participation in the project; and

(2) the revenue or taxes pledged by the political subdivision or water supply corporation [rural community] will be sufficient to meet all the obligations assumed by the subdivision or corporation [rural community] during the [succeeding] period of any loan provided by the board [not more than 20 years].

SECTION 13. Section 15.914, Water Code, is amended to read as follows:

Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A political subdivision or water supply corporation [The governing body of each rural community] receiving financial assistance [from the board] under this subchapter shall require in all contracts for the construction of a project that:

(1) each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) each contractor awarded a construction contract furnish performance and payment bonds as follows:

(A) the performance bond must include guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds must be in

4-1 a penal sum of not less than 100 percent of the contract price and  
 4-2 remain in effect for one year after the date of approval by the  
 4-3 engineer of the ~~[political]~~ subdivision or corporation;

4-4 (3) payment be made in partial payments as the work  
 4-5 progresses;

4-6 (4) each partial payment not exceed 95 percent of the  
 4-7 amount due at the time of the payment as shown by the engineer of the  
 4-8 project, but, if the project is substantially complete, a partial  
 4-9 release of the five percent retainage may be made by the subdivision  
 4-10 or corporation ~~[rural community]~~ with approval of the executive  
 4-11 administrator;

4-12 (5) payment of the retainage remaining due on  
 4-13 completion of the contract be made only after:

4-14 (A) approval by the engineer for the subdivision  
 4-15 or corporation ~~[rural community]~~ as required under the bond  
 4-16 proceedings;

4-17 (B) approval by the subdivision or corporation  
 4-18 ~~[governing body of the rural community]~~ by a resolution or other  
 4-19 formal action; and

4-20 (C) certification by the executive administrator  
 4-21 in accordance with the rules of the board that the work to be done  
 4-22 under the contract has been completed and performed in a  
 4-23 satisfactory manner and in accordance with sound engineering  
 4-24 principles and practices;

4-25 (6) no valid approval be granted unless the work done  
 4-26 under the contract has been completed and performed in a  
 4-27 satisfactory manner according to approved plans and  
 4-28 specifications; and

4-29 (7) labor from inside the disadvantaged rural  
 4-30 community be used to the extent possible.

4-31 SECTION 14. Section 15.915, Water Code, is amended to read  
 4-32 as follows:

4-33 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
 4-34 subdivision or water supply corporation ~~[rural community]~~ shall  
 4-35 file with the board a certified copy of each construction contract  
 4-36 it enters into for the construction of all or part of a project.  
 4-37 Each contract must contain or have attached to it the  
 4-38 specifications, plans, and details of all work included in the  
 4-39 contract.

4-40 SECTION 15. Section 15.917, Water Code, is amended to read  
 4-41 as follows:

4-42 Sec. 15.917. ALTERATION OF PLANS. After the executive  
 4-43 administrator approves the engineering plans, a political  
 4-44 subdivision or water supply corporation ~~[rural community]~~ may not  
 4-45 make any substantial or material alteration in the plans unless the  
 4-46 executive administrator authorizes the alteration. The executive  
 4-47 administrator ~~[board]~~ shall review and approve or disapprove plans  
 4-48 and specifications for all sewage collection, treatment, and  
 4-49 disposal systems for which financial assistance is provided from  
 4-50 the fund in a manner that will satisfy commission requirements for  
 4-51 design criteria and permit conditions that apply to construction  
 4-52 activities.

4-53 SECTION 16. Section 15.920, Water Code, is amended to read  
 4-54 as follows:

4-55 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
 4-56 SUPPLY CORPORATIONS ~~[RURAL COMMUNITIES]~~. Political subdivisions  
 4-57 or water supply corporations ~~[Rural communities]~~ that receive  
 4-58 financial assistance from the fund are granted all necessary  
 4-59 authority to enter into grant agreements or loan agreements and  
 4-60 issue promissory notes in connection with the financial assistance  
 4-61 granted under this subchapter.

4-62 SECTION 17. The following sections are repealed:

4-63 (1) Section 15.901(2), Water Code;

4-64 (2) Section 15.903(e), Water Code; and

4-65 (3) Section 15.919, Water Code.

4-66 SECTION 18. The changes in law made by this Act apply only  
 4-67 to an application for financial assistance made on or after the  
 4-68 effective date of this Act. An application for financial  
 4-69 assistance made before the effective date of this Act is governed by

5-1 the law in effect on the date the application was made, and the  
5-2 former law is continued in effect for that purpose.

5-3 SECTION 19. This Act takes effect immediately if it  
5-4 receives a vote of two-thirds of all the members elected to each  
5-5 house, as provided by Section 39, Article III, Texas Constitution.  
5-6 If this Act does not receive the vote necessary for immediate  
5-7 effect, this Act takes effect September 1, 2005.

5-8 \* \* \* \* \*

FAVORABLE  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 3029  
By Shirama / Barrientos  
(Author/Senate Sponsor)  
May 20, 2005  
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,  
have on 5/19/05, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass and be printed  
☐ do pass and be ordered not printed  
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.  
A fiscal note was requested. ☒ yes ☐ no  
A revised fiscal note was requested. ☐ yes ☒ no  
An actuarial analysis was requested. ☐ yes ☒ no  
Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	X			
Senator Jackson, Vice-Chair	X			
Senator Barrientos	X			
Senator Duncan			X	
Senator Estes	X			
Senator Fraser	X			
Senator Hinojosa	X			
Senator Lindsay	X			
Senator Madla	X			
Senator Seliger	X			
Senator Staples			X	
TOTAL VOTES	9	0	2	0

COMMITTEE ACTION

S260 Considered in public hearing  
S270 Testimony taken NO oral testimony

[Signature]  
COMMITTEE CLERK

[Signature]  
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill  
Retain one copy of this form for Committee files

WITNESS LIST

HB 3029

SENATE COMMITTEE REPORT

Natural Resources

May 19, 2005 - 1:35PM

ON: Madera, Jr, Ignacio (Tx Water Development Board), Austin, TX

Registering, but not testifying:

For: Petersen, Ken (Tx Rural Water Association), Austin, TX

On: Steinberg, Johnathan (Tx Water Development Board), Austin, TX

## **BILL ANALYSIS**

Senate Research Center  
79R13152 MFC-F

H.B. 3029  
By: Strama (Barrientos)  
Natural Resources  
5/18/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

During the 77th Legislature, Regular Session, 2001, the Pilot Program for Water and Wastewater Services was created to provide resources for rural communities that need water and wastewater loans. The current pilot program applies only to cities, counties, and certain districts and authorities with a population of less than 5,000.

H.B. 3029 makes the pilot program permanent and expands the program to allow statewide access for certain communities that need water and wastewater services.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Water Development Board is modified in SECTION 8 (Section 15.909, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subchapter O, Chapter 15, Water Code, to read as follows:

#### **SUBCHAPTER O. PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE FOR DISADVANTAGED RURAL COMMUNITIES**

SECTION 2. Amends Section 15.901, Water Code, by amending Subdivisions (1) and (3) to redefine "fund" and "rural community," and adding Subdivision (4) to define "disadvantaged rural community."

SECTION 3. Amends the heading to Section 15.902, Water Code, to read as follows:

#### **Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND WASTEWATER FINANCIAL ASSISTANCE FUND.**

SECTION 4. Amends Section 15.902(a), Water Code, to provide that the disadvantaged rural community water and wastewater financial assistance fund (fund), rather than loan, is an account in the water assistance fund.

SECTION 5. Amends Sections 15.903(a), (b), and (d), Water Code, as follows:

(a) Authorizes the fund to be used by the Texas Water Development Board (TWDB) to provide grants of financial assistance to political subdivisions or water supply corporations, rather than rural communities, for the construction, acquisition, or improvement of water and wastewater projects to provide service to disadvantaged rural communities.

(b) Authorizes TWDB to make financial assistance available to a political subdivision or water supply corporation, rather than a rural community, by entering into a grant agreement or a loan agreement and promissory note with a subdivision or corporation, as provided by this subchapter. Authorizes a political subdivision or water supply corporation to apply for and accept the financial assistance. Makes conforming changes.

(d) Makes a conforming change.



SECTION 6. Amends Section 15.904(a), Water Code, to authorize a political subdivision or water supply corporation to pledge a percentage of its revenue to the payment of debt incurred under a loan agreement entered into with TWDB under this subchapter. Makes a conforming and nonsubstantive change.

SECTION 7. Amends Section 15.905, Water Code, to make conforming changes.

SECTION 8. Amends Section 15.909, Water Code, to require TWDB to adopt necessary rules to administer this subchapter, including rules establishing procedures for application for an award of loans or grants.

SECTION 9. Amends Section 15.910, Water Code, as follows:

(a)-(c) Makes conforming changes.

(d) Requires a political subdivision or water supply corporation, in an application to TWDB for financial assistance from the fund, to include household surveys for the disadvantaged rural community to be served by the project that are acceptable to TWDB and contain information adequate to establish specific criteria.

SECTION 10. Amends Section 15.911, Water Code, to make conforming changes.

SECTION 11. Amends Section 15.912, Water Code, to require TWDB to consider specific criteria in acting on an application for financial assistance. Makes a conforming change.

SECTION 12. Amends Section 15.913, Water Code, to authorize TWDB, by resolution, to approve an application for a loan or grant if, after considering the factors listed in Section 15.912 and any other relevant factors, it makes specific determinations.

SECTION 13. Amends Section 15.914, Water Code, to require a political subdivision or water supply corporation receiving financial assistance under this subchapter to require specific guidelines be followed in all contracts for the construction of a project. Makes conforming changes.

SECTION 14. Amends Section 15.915, Water Code, to make a conforming change.

SECTION 15. Amends Section 15.917, Water Code, to require the executive administrator of TWDB, rather than TWDB, to review and approve or disapprove plans and specifications for all sewage collection, treatment, and disposal systems for which financial assistance is provided from the fund. Makes a conforming change.

SECTION 16. Amends Section 15.920, Water Code, as follows:

Sec. 15.920. New heading: AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER SUPPLY CORPORATIONS. Provides that political subdivisions or water supply corporations that receive financial assistance from the fund are granted all necessary authority to enter into grant agreements or loan agreements and issue promissory notes in connection with the financial assistance granted under this subchapter. Makes a conforming change.

SECTION 17. Repealers:

- (1) Section 15.901(2) (relating to the definition of "political subdivision"), Water Code;
- (2) Section 15.903(e) (relating to the time limit on a loan authorized by the subchapter), Water Code; and
- (3) Section 15.919 (Report to the Legislature), Water Code.

SECTION 18. Makes application this Act prospective.

SECTION 19. Effective date: upon passage or September 1, 2005.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 18, 2005**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of certain rural areas for certain state assistance.),  
**As Engrossed**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would rename the Pilot Program for Water and Wastewater for Rural Communities to the Program for Water and Wastewater Financial Assistance for Disadvantaged Rural Communities. Accordingly, the name of the fund would be changed from the Rural Community Water and Wastewater Loan Fund to the Disadvantaged Rural Community Water and Wastewater Financial Assistance Fund, which would continue to be an account in the Water Assistance Fund.

The definition for "rural community" would be amended to expand eligibility for communities to participate in the financial assistance program, and a definition for "disadvantaged rural community" would be added to statute for the same purpose.

The bill would amend the procedures for applying for and granting assistance, as well as construction contract requirements. The bill would also repeal sections of the Water Code, including Section 15.903(e) which limits a loan term to 20 years.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005. Provisions of the bill would apply only to applications for assistance made on or after the effective date.

The proposed changes to statute would not change the level of state assistance that could be provided to political subdivisions and water supply corporations; assistance would continue to be limited to amounts available in the (to be renamed) Wastewater Financial Assistance Fund.

**Local Government Impact**

Political subdivisions that may not be eligible for water and wastewater financial assistance under existing statute could seek financial assistance under the provisions of the bill. The positive fiscal impact would vary and would depend on what is approved by TWDB.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WP, WK, DLBa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 21, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of certain rural areas for certain state assistance. ),  
**Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would rename the Pilot Program for Water and Wastewater for Rural Communities to the Program for Water and Wastewater Financial Assistance for Disadvantaged Rural Communities. Accordingly, the name of the fund would be changed from the Rural Community Water and Wastewater Loan Fund to the Disadvantaged Rural Community Water and Wastewater Financial Assistance Fund, which would continue to be an account in the Water Assistance Fund.

The definition for "rural community" would be amended to expand eligibility for communities to participate in the financial assistance program, and a definition for "disadvantaged rural community" would be added to statute for the same purpose.

The bill would amend the procedures for applying for and granting assistance, as well as construction contract requirements. The bill would also repeal sections of the Water Code, including Section 15.903(e) which limits a loan term to 20 years.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005. Provisions of the bill would apply only to applications for assistance made on or after the effective date.

The proposed changes to statute would not change the level of state assistance that could be provided to political subdivisions and water supply corporations; assistance would continue to be limited to amounts available in the (to be renamed) Wastewater Financial Assistance Fund.

**Local Government Impact**

Political subdivisions that may not be eligible for water and wastewater financial assistance under existing statute could seek financial assistance under the provisions of the bill. The positive fiscal impact would vary and would depend on what is approved by TWDB.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 10, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3029** by Strama (Relating to eligibility of nonborder areas for certain state assistance.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Water Code to broaden the eligibility for nonborder counties to qualify for certain state assistance. The bill would take effect immediately if it receives a two-thirds vote in each house; otherwise, it is assumed it would take effect September 1, 2005 (the bill indicates it would take effect September 1, 2003 if it does not receive the two-thirds vote).

Broadening the criteria could result in an increase in the number of entities eligible for state financial assistance under various sections of the Water Code, and thereby the demand for such assistance; however, it is not expected to result in significant cost increases to the state because such entities would already be eligible for existing similar state agency programs.

**Local Government Impact**

The bill could result in certain political subdivisions being eligible for additional grant funds and loan assistance at reduced interest rates; however, since such entities would likely be eligible for similar financial assistance programs under current law, no significant fiscal implications are expected.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, WK, DLBa

# REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN  
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 3029, by Strama / Barnientos,  
(Bill No.) (Author/Sponsor)  
was heard by the Committee on Natural Resources on 5/19,  
2005,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Wally C. Mellett  
(Clerk of the reporting committee)

**IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.**

F

**ENROLLED**

H.B. No. 3029

AN ACT

relating to eligibility of certain rural areas for certain state assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter O, Chapter 15, Water Code, is amended to read as follows:

SUBCHAPTER O. ~~[PILOT]~~ PROGRAM FOR WATER AND WASTEWATER FINANCIAL ASSISTANCE ~~[LOANS]~~ FOR DISADVANTAGED RURAL COMMUNITIES

SECTION 2. Section 15.901, Water Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (4) to read as follows:

(1) "Fund" means the disadvantaged rural community water and wastewater financial assistance ~~[loan]~~ fund.

(3) "Rural community" means:

(A) a municipality or county with a population of less than 5,000; ~~[or]~~

(B) any portion of a political subdivision ~~[district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,]~~ with a service population of less than 5,000 that is located outside the boundaries or extraterritorial jurisdiction of a municipality; or

(C) a predominately residential area with a population of less than 5,000 that is located outside the corporate boundaries of a municipality.

1           (4) "Disadvantaged rural community" means a rural  
2 community with a median household income that is not greater than 75  
3 percent of the median state household income for the most recent  
4 year for which the applicable statistics are available.

5           SECTION 3. The heading to Section 15.902, Water Code, is  
6 amended to read as follows:

7           Sec. 15.902. DISADVANTAGED RURAL COMMUNITY WATER AND  
8 WASTEWATER FINANCIAL ASSISTANCE [~~LOAN~~] FUND.

9           SECTION 4. Section 15.902(a), Water Code, is amended to  
10 read as follows:

11           (a) The disadvantaged rural community water and wastewater  
12 financial assistance [~~loan~~] fund is an account in the water  
13 assistance fund.

14           SECTION 5. Sections 15.903(a), (b), and (d), Water Code,  
15 are amended to read as follows:

16           (a) The fund may be used by the board to provide grants or  
17 loans of financial assistance to political subdivisions or water  
18 supply corporations [~~rural communities~~] for the construction,  
19 acquisition, or improvement of water and wastewater projects to  
20 provide service to disadvantaged rural communities.

21           (b) The board may make financial assistance available to a  
22 political subdivision or water supply corporation [~~rural~~  
23 ~~community~~] by entering into a grant agreement or a loan agreement  
24 and promissory note with the subdivision or corporation [~~rural~~  
25 ~~community~~], as provided by this subchapter. A political  
26 subdivision or water supply corporation [~~rural community~~] may apply  
27 for and accept the financial assistance.



1 (d) The loan agreement must provide for the issuance of a  
2 promissory note payable to the board to evidence the obligation of  
3 the political subdivision or water supply corporation [~~rural~~  
4 ~~community~~] to repay the loan made in accordance with the terms of  
5 the loan agreement.

6 SECTION 6. Section 15.904(a), Water Code, is amended to  
7 read as follows:

8 (a) A political subdivision or water supply corporation may  
9 pledge a percentage of its revenue to the payment of debt incurred  
10 under a loan agreement entered into with the board under this  
11 subchapter. A [~~rural community that is a~~] municipality or county  
12 may pledge a percentage of the sales and use tax revenue received  
13 under Chapter 321 or 323, Tax Code, as applicable, to the payment of  
14 debt incurred under a loan agreement entered into with the board  
15 under this subchapter if a majority of the voters voting at an  
16 election called and held for that purpose authorize the  
17 municipality or county to pledge a portion of that revenue for that  
18 purpose.

19 SECTION 7. Section 15.905, Water Code, is amended to read as  
20 follows:

21 Sec. 15.905. REVIEW AND APPROVAL OF LOAN AGREEMENT BY  
22 ATTORNEY GENERAL. (a) Before a loan agreement may become  
23 effective, a record of the proceedings of the board and the  
24 political subdivision or water supply corporation [~~rural~~  
25 ~~community~~] authorizing the execution of the loan agreement, the  
26 loan agreement, the promissory note, and any contract providing  
27 revenue or security to pay the promissory note must be submitted to

1 the attorney general for review and approval.

2 (b) If the attorney general finds that the loan agreement  
3 and the promissory note are valid and binding obligations of the  
4 political subdivision or water supply corporation [~~rural~~  
5 ~~community~~], the attorney general shall approve the documents and  
6 deliver them to the comptroller, the board, and the subdivision or  
7 corporation [~~rural community~~], together with a copy of the attorney  
8 general's legal opinion stating that approval.

9 SECTION 8. Section 15.909, Water Code, is amended to read as  
10 follows:

11 Sec. 15.909. RULES. The board shall adopt necessary rules  
12 to administer this subchapter, including rules establishing  
13 procedures for application for and award of loans or grants.

14 SECTION 9. Section 15.910, Water Code, is amended to read as  
15 follows:

16 Sec. 15.910. APPLICATION FOR ASSISTANCE. (a) In an  
17 application to the board for financial assistance from the fund, a  
18 political subdivision or water supply corporation [~~the rural~~  
19 ~~community~~] must include:

20 (1) its [~~the~~] name [~~of the rural community~~] and its  
21 principal officers;

22 (2) a citation of the law under which the subdivision  
23 or corporation [~~the rural community~~] operates and was created;

24 (3) a description of the water or wastewater project  
25 for which the financial assistance will be used;

26 (4) the total cost of the project;

27 (5) the amount of state financial assistance

1 project that proposes surface water or groundwater development  
2 until the executive administrator makes a written finding:

3 (1) that the political subdivision or water supply  
4 corporation [~~a rural community~~] proposing surface water  
5 development has the necessary water right authorizing it to  
6 appropriate and use the water that the project will provide; or

7 (2) that the subdivision or corporation [~~a rural~~  
8 ~~community~~] proposing groundwater development has the right to use  
9 water that the project will provide.

10 (b) If the political subdivision or water supply  
11 corporation [~~a rural community~~] includes a proposal for a  
12 wastewater treatment project, the board may not release funds for  
13 the project construction until the subdivision or corporation  
14 [~~rural community~~] has received a permit for the construction and  
15 operation of the project and approval of the plans and  
16 specifications for the project in a manner that will satisfy  
17 commission requirements for design criteria and permit conditions  
18 that apply to construction activities.

19 SECTION 11. Section 15.912, Water Code, is amended to read  
20 as follows:

21 Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. In  
22 acting on an application for financial assistance, the board shall  
23 consider:

24 (1) the needs of the area to be served by the project  
25 and the benefit of the project to the area in relation to the needs  
26 of other areas requiring state assistance in any manner and the  
27 benefits of those projects to the other areas;

1           (2) the availability of revenue to the political  
2 subdivision or water supply corporation [~~rural community~~] from all  
3 sources for any necessary [~~the ultimate~~] repayment of the cost of  
4 the project, including all interest;

5           (3) the relationship of the project to overall  
6 statewide needs; and

7           (4) any other factors that the board considers  
8 relevant.

9           SECTION 12. Section 15.913, Water Code, is amended to read  
10 as follows:

11           Sec. 15.913. APPROVAL OF APPLICATION. The board by  
12 resolution may approve an application for a loan or grant if, after  
13 considering the factors listed in Section 15.912 and any other  
14 relevant factors, the board finds that:

15           (1) the public interest requires state participation  
16 in the project; and

17           (2) the revenue or taxes pledged by the political  
18 subdivision or water supply corporation [~~rural community~~] will be  
19 sufficient to meet all the obligations assumed by the subdivision  
20 or corporation [~~rural community~~] during the [~~succeeding~~] period of  
21 any loan provided by the board [~~not more than 20 years~~].

22           SECTION 13. Section 15.914, Water Code, is amended to read  
23 as follows:

24           Sec. 15.914. CONSTRUCTION CONTRACT REQUIREMENTS. A  
25 political subdivision or water supply corporation [~~The governing~~  
26 ~~body of each rural community~~] receiving financial assistance [~~from~~  
27 ~~the board~~] under this subchapter shall require in all contracts for

the construction of a project that:

(1) each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) each contractor awarded a construction contract furnish performance and payment bonds as follows:

(A) the performance bond must include guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds must be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year after the date of approval by the engineer of the ~~[political]~~ subdivision or corporation;

(3) payment be made in partial payments as the work progresses;

(4) each partial payment not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the subdivision or corporation ~~[rural community]~~ with approval of the executive administrator;

(5) payment of the retainage remaining due on completion of the contract be made only after:

(A) approval by the engineer for the subdivision or corporation ~~[rural community]~~ as required under the bond proceedings;

(B) approval by the subdivision or corporation

1 ~~[governing body of the rural community]~~ by a resolution or other  
2 formal action; and

3 (C) certification by the executive administrator  
4 in accordance with the rules of the board that the work to be done  
5 under the contract has been completed and performed in a  
6 satisfactory manner and in accordance with sound engineering  
7 principles and practices;

8 (6) no valid approval be granted unless the work done  
9 under the contract has been completed and performed in a  
10 satisfactory manner according to approved plans and  
11 specifications; and

12 (7) labor from inside the disadvantaged rural  
13 community be used to the extent possible.

14 SECTION 14. Section 15.915, Water Code, is amended to read  
15 as follows:

16 Sec. 15.915. FILING CONSTRUCTION CONTRACT. The political  
17 subdivision or water supply corporation ~~[rural community]~~ shall  
18 file with the board a certified copy of each construction contract  
19 it enters into for the construction of all or part of a project.  
20 Each contract must contain or have attached to it the  
21 specifications, plans, and details of all work included in the  
22 contract.

23 SECTION 15. Section 15.917, Water Code, is amended to read  
24 as follows:

25 Sec. 15.917. ALTERATION OF PLANS. After the executive  
26 administrator approves the engineering plans, a political  
27 subdivision or water supply corporation ~~[rural community]~~ may not

1 make any substantial or material alteration in the plans unless the  
2 executive administrator authorizes the alteration. The executive  
3 administrator [~~board~~] shall review and approve or disapprove plans  
4 and specifications for all sewage collection, treatment, and  
5 disposal systems for which financial assistance is provided from  
6 the fund in a manner that will satisfy commission requirements for  
7 design criteria and permit conditions that apply to construction  
8 activities.

9 SECTION 16. Section 15.920, Water Code, is amended to read  
10 as follows:

11 Sec. 15.920. AUTHORITY OF POLITICAL SUBDIVISIONS OR WATER  
12 SUPPLY CORPORATIONS [~~RURAL COMMUNITIES~~]. Political subdivisions  
13 or water supply corporations [~~Rural communities~~] that receive  
14 financial assistance from the fund are granted all necessary  
15 authority to enter into grant agreements or loan agreements and  
16 issue promissory notes in connection with the financial assistance  
17 granted under this subchapter.

18 SECTION 17. The following sections are repealed:

- 19 (1) Section 15.901(2), Water Code;  
20 (2) Section 15.903(e), Water Code; and  
21 (3) Section 15.919, Water Code.

22 SECTION 18. The changes in law made by this Act apply only  
23 to an application for financial assistance made on or after the  
24 effective date of this Act. An application for financial  
25 assistance made before the effective date of this Act is governed by  
26 the law in effect on the date the application was made, and the  
27 former law is continued in effect for that purpose.

H.B. No. 3029

1           SECTION 19. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2005.



H.B. No. 3029

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President of the Senate

---

Speaker of the House

I certify that H.B. No. 3029 was passed by the House on May 10, 2005, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 3029 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 3029 was passed by the House  
(1)

on May 10, 2005, by the following vote:  
(2)

Yeas 147, Nays 0, 1 present, not voting  
(3) (4)

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 3029 was passed by the Senate

on May 25, 2005, by the following vote:  
(5)

Yeas 31, Nays 0  
(6) (7)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: CT24

H.B. No.

3024

By

*Mark Strome*

A BILL TO BE ENTITLED  
AN ACT

relating to eligibility of nonborder areas for certain state assistance.

MAR 11 2005

Filed with the Chief Clerk

MAR 17 2005

Read first time and referred to Committee on Natural Resources

APR 18 2005

Reported \_\_\_ favorably (~~unanimous~~)  
(as substituted)

APR 25 2005

Sent to Committee on (Calendars)

MAY 09 2005

Read second time (comm. subst.) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote)  
(~~record vote of~~ \_\_\_ yeas, \_\_\_ nays, \_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_ yeas, \_\_\_ nays, \_\_\_ present, not voting

MAY 10 2005

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (~~non-record vote~~)  
(record vote of 147 yeas, 0 nays, 1 present, not voting)

Engrossed

MAY 11 2005

Sent to Senate

*Robert Haney*  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 11 2005

Received from the House

MAY 13 2005

Read and referred to Committee on NATURAL RESOURCES

MAY 20 2005

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

MAY 25 2005

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_ yeas, \_\_\_ nays)

MAY 25 2005

Read second time, \_\_\_\_\_, and passed to third reading by (~~unanimous consent~~)  
(~~a viva voce vote~~)  
(\_\_\_ yeas, \_\_\_ nays)

MAY 25 2005

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 25 2005

Read third time, \_\_\_\_\_, and passed by a (~~viva voce vote~~)  
(31 yeas, 0 nays)

MAY 25 2005

Returned to the House

*Latoy Spaw*  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 25 2005

Returned from the Senate (~~as substituted~~)  
(~~with amendments~~)

House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

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HOUSE OF REPRESENTATIVES